

Message Text

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62

ACTION OPIC-06

INFO OCT-01 NEA-10 ISO-00 EB-07 AID-05 L-03 TRSE-00 FRB-03

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FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC PRIORITY 2907

INFO AMCONSUL BOMBAY

AMCONSUL CALCUTTA

AMCONSUL MADRAS

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C O R R E C T E D C O P Y - MRN CORRECTION - 16911 VICE 16972

EO 11652: NA

TAGS: EFIN, IN

SUBJ7 GOI DIVIDEND DECLARATION RESTRICTIONS

REF: A. STATE 293792 B. NEW DELHI 16013

1. STATUTORY RESTRICTIONS ON THE PAYMENT OF ALL CORPORATE DIVIDENDS FOR A PERIOD OF TWO YEARS WERE IMPOSED ON JULY 6, 1974 THROUGH AN ORDINANCE PROMULGATED BY THE PRESIDENT AS PART OF GOI ANTI-INFLATIONARY FISCAL MEASURES. THE ORDINANCE WAS SUBSEQUENTLY REPLACED BY AN ACT OF PARLIAMENT. HLA COPY OF THE COMPANIES (TEMPORARY RESTRICTIONS ON DIVIDENDS) ACT (NO 35 OF 1974) TOGETHER WITH AMENDMENTS TO DATE IS BEING AIRPOUCHED FOR ATTENTION OPIC. THE RESTRICTIONS ARE TEMPORARY AND ARE EXPECTED TO LAPSE IN JULY 1976, ALTHOUGH THE POSSIBILITY EXISTS THAT THEY COULD BE EXTENDED.

2. THE EXISTING REGULATIONS DO NOT SPECIFICALLY PRECLUDE THE DECLARATION AND REPATRIATION OF DIVIDENDS BY FOREIGN COMPANIES IN PARTIAL LIQUIDATION IF THE
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DIVIDENDS SO DECLARED ARE WITHIN THE OVERALL PARA-

METERS ESTABLISHED BY THE ACT. AN AMENDMENT TO THE ACT PERMITS COMPANIES TO DECLARE HIGHER DIVIDENDS PROVIDED THE EXCESS OVER THE "DISTRIBUTABLE PROFITS" ARE DISBURSED IN TWO EQUAL INSTALLMENTS ON OR AFTER JULY 6, 1976 AND JULY 6, 1977. IN ANY EVENT, REPATRIATION IN THIS CASE WOULD BE PERMITTED ONLY AFTER OBTAINING THE SPECIFIC APPROVAL OF THE RESERVE BANK OF INDIA, WHICH WILL TAKE ITS INSTRUCTIONS FROM THE GOI MINISTRY OF FINANCE. IN THE ABSENCE OF ANY KNOWN PRECEDENTS, MERCK'S APPLICATION FOR REPATRIATION OF THE RETAINED EARNINGS WOULD BE REVIEWED ON THE MERITS OF THE CASE AND WE SUSPECT THAT THE COMPANY'S OVERALL CORPORATE POSTURE IN INDIA WOULD WEIGH HEAVILY, ALBEIT UNOFFICIALLY.

3. SHOULD MERCK DECIDE TO APPLY FOR REPATRIATION OF VSB RETAINED EARNINGS OR OTHER CAPITAL INVESTMENTS FROM INDIA, NOW IS AS GOOD A TIME AS EVER. WE OFFER NO PREDICTION ON THE FUTURE FOREIGN EXCHANGE SITUATION.

4. WITH REGARD TO APPROACHING THE RBI, WE SUGGEST THAT MERCK FIRST SUBMIT ITS APPLICATION AND WE WILL FOLLOW IT UP. WE CONTINUE TO BELIEVE THAT A PRINCIPAL OF THE COMPANY SHOULD COME TO INDIA AND BE PREPARED TO STAY FOR A REASONABLE PERIOD TO DISCUSS THE COMPANY'S FUTURE ROLE IN INDIA. WE WILL BE PLEASED TO MAKE THE NECESSARY APPOINTMENTS AND ACCOMPANY THE COMPANY REPRESENTATIVE IF HE DESIRES.
SAXBE

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